HIGH COURT OF UTTARANCHAL AT NAINITAL.

A.O. No. 319 of 2004

Subhash Chand Jaiswal .....Appellant.

Vs.
Addl. District Judge/2nd F.T.C.,
U.S. Nagar and others. .....Respondents.

Dated: 28.8.2004

Hon'ble Rajesh Tandon, J.

Heard Sri S.K. Mandal, learned counsel for the appellant.

By the present appeal the appellant has challenged the order-dated 30.07.2004 passed by Addl. District Judge/2nd F.T.C. Rudrapur, Udham Singh Nagar by which the injunction has been granted against the appellant/defendant.

Brief stated a suit was filed praying for the permanent injunction restraining the respondents from interfering with the possession of property in dispute. The defendant appellant has stated that he is in possession over the property in dispute since 1982 and paying rent continuously to the Municipal Board.

The case of the plaintiff was that a lease has been granted on 1st April 1964 in favour of the plaintiff in respect of plot no. 135/1 area 25' X 18' feet for a period of 30 years.

The plaintiff has filed an application under Order 39 Rule 1 C.P.C. for temporary injunction. The defendant has filed objection against the application for temporary injunction. The trial Court has allowed the application for temporary injunction and restrained the defendants from interfering in possession of the plaintiff over the property in dispute vide order dated 30.7.2004.

A perusal of the plaint shows that the suit was filed as back as in the year 2001. At present the injunction order has been granted only on the plea that the plaintiff was in continuous possession over the property in suit. In point of fact the defendant-appellant has disputed the same.

So far as the injunction order granted by the Additional District Judge, I do not find any infirmity in the order passed by the trial Court.

However order dated 30.7.2004 is modified to the extent that the parties shall maintain status quo during the pendency of the suit. The trial Court is directed to decide the suit within four months after receipt of the certified copy of this order.

Subject to the aforesaid observation, the appeal is dismissed. No order as to costs.

(Rajesh Tandon, J.)

Dt/-28-8-2004

*Dhyani